

§§ 282.99–282.101

40 CFR Ch. I (7–1–05 Edition)

not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[69 FR 33311, June 15, 2004]

§§ 282.99–282.101 [Reserved]

§ 282.102 Puerto Rico State-Administered Program.

(a) The Commonwealth of Puerto Rico is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The Commonwealth's program, as administered by the Commonwealth of Puerto Rico Environmental Quality Board, is approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this chapter. EPA is publishing the notice of final determination on the approved Commonwealth of Puerto Rico underground storage tank program concurrently with this notice and it will be effective on March 31, 1998.

(b) The Commonwealth of Puerto Rico has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h)(1), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h)(1), 6991d and 6991e, as well as its authority under other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth of Puerto Rico must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If the Commonwealth obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) The Commonwealth of Puerto Rico has final approval for the following elements submitted to EPA in its program application for final ap-

proval and to be published in the FEDERAL REGISTER concurrently with this notice, and to be effective on March 31, 1998. Copies may be obtained from the Underground Storage Tank Program, Puerto Rico Environmental Quality Board, 431 Ponce De Leon Avenue, Nacional Plaza, Suite 614, Hato Rey, PR 00917, Phone: (787) 767-8109.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Puerto Rico Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) Puerto Rico Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997.

(ii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are part of the approved Commonwealth program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) § 1121 *et seq.*

(i) Section 1131 Functions and duties [Insofar as paragraphs (10), (12), (13), (19), (22), (23), (25), (26), (29), and (30) set forth enforcement authorities.]

(ii) Section 1134 Hearings, orders and judicial proceedings

(iii) Section 1136 Penalty

(iv) Section 1139 Civil actions

(v) Section 1142 Powers [Insofar as (b)(5) sets forth enforcement authorities.]

(2) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A. § 1269 *et seq.*

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(2) Part X—General Provisions.

(i) Rule 1005 Right of Entry

(ii) Rule 1007 Notice of Violation and Compliance Order

(iii) Rule 1008 Closure of an Underground Storage Tank

(iv) Rule 1010 Penalties

(C) Other provisions include:

(1) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(2) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated on October 19, 1988.

(iii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(i) Section 1131—Functions and duties [Insofar as paragraph (13) addresses permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34) relates solely to the solid and hazardous waste programs.]

(ii) Section 1132—Transfer of powers

(iii) Section 1135—Character of Board for federal purposes [Insofar as it addresses permit requirements.]

(iv) Section 1138—Effectiveness of previous documents [Insofar as it addresses permit and licensing requirements.]

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(i) Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances: Rule 603—Initial Abatement Measures and Site Check [Insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]; Rule 605—Free Product Removal [Insofar as 605(A) and 605(D)(6) require owners and operators to obtain permits or franchises for drilling and

installation of water monitoring and/or extraction wells.].

(ii) Part XII—Fee Rules [Insofar as fees are broader in scope than the federal program.]: Rule 1201—Applicability; Rule 1202—Annual Notification Fees; Rule 1203—Fee Relative to Transfer of Ownership; Rule 1204—Fees for Duplication of Records; Rule 1205—Fee Payments; Rule 1206—Exemptions from Fees; Rule 1207—Fees for Revision of Permanent Closure Plans; Rule 1208—Fees for Annual Re-certification of UST Facilities.

(2) *Statement of legal authority.* The Attorney General Statement, a letter signed on July 2, 1997, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the application for approval on January 17, 1996, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the application on January 17, 1996 and supplemented on April 17, 1997, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 2 and the Puerto Rico Environmental Quality Board, signed by an authorized representative of the Environmental Quality Board on March 7, 1997 and subsequently by an authorized representative of EPA, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[63 FR 4593, Jan. 30, 1998]